

AUGUST 9, 1995

6:00

CITY HALL

MANISTEE COUNTY P.E.G. COMISSION MINUTES

THE MEETING WAS CALLED TO ORDER BY CHAIRPERSON ANGELA MORIN, ATTENDING WERE KATHY FENSTERMACHER, TOM KAMINSKI, WILLIAM SHALES AND NANCY LE MIRE.

MINUTES OF THE JUNE 21st MEETING WERE READ, MR. KAMINSKI MOVED TO ACCEPT, SECONDED BY MR. SHALES. THE MOTION CARRIED, MINUTES APPROVED.

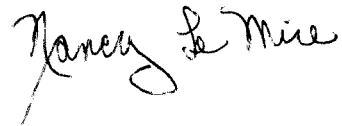
UNDER OLD BUSINESS MS. FENSTERMACHER READ THE THIRD DRAFT OF THE MANISTEE PUBLIC ACCESS POLICY. IT WAS DECIDED THAT AFTER THE CITY ATTORNEY CONFERS ON THE "LIABILITY AND PROGRAM OWNERSHIP" AND "COPYRIGHT" IT WOULD BE PRESENTED TO THE CITY COUNCIL FOR FINAL APPROVAL IN SEPTEMBER.

UNDER NEW BUSINESS MR. SHALES RECIEVED A MEMORANDUM FROM JOHN PESTLE RE: STATE LEGISLATIVE THREAT TO FRANCHISING, DATED JULY 27, 1995. A COPY OF THIS THREE PAGE MEMORANDUM WILL BE SENT WITH EACH OF THIS MINUTES TO BE STUDIED AND REVIEWED AT THE NEXT MEETING.

MR. SHALES MOVED TO ADJOURN, IT WAS SECONDED BY MR. KAMINSKI.

THE NEXT MEETING OF THE P.E.G. MEETING WILL BE HELD AT 6:00 P.M. ON SEPTEMBER 6, 1995, AT CITY HALL

NANCY LEMIRE SEC.

A handwritten signature in cursive script, appearing to read "Nancy Lemire", written over the printed name and title.

Clifford E. Salko  
Sunset Productions  
390 Second Street  
Manistee, MI 49660  
July 31, 1995

Manistee P.E.G. Commission  
70 Maple Street  
Manistee, MI 49660

RE: COMPLAINT

Dear P.E.G. Commission;

I first would like to congratulate the commission on the hard work you have put into Manistee's Channel 2.

Regarding the issue of the program which I had submitted for broadcast (Museum of Science and Industry) which was met with apparent opposition created by Infoprod, Inc. (Mr. Mark Carlson), I feel the P.E.G. commission did not take severe enough infractions against Infoprod, Inc.

I trust that this issue will be re-considered and appropriate action will be taken against Infoprod, Inc. as Ms. Morin took her time to verify the situation and found no wrong doing on our part.

The second issue and probably important is that Infoprod, Inc. (Mr. Mark Carlson) appointed by the City of Manistee as the interim operator of Manistee's Channel 2 and acting on behalf of the City of Manistee is in clear violation of FCC Ruling on notification of an attack of a person and or group on a cablecast. According to the FCC ruling and the FCC Fact Sheets dated March/ June 1994 and this ruling still in affect, I quote, " If the attack was of a personal nature, the person is entitled to use the cable system to respond to the attack. The rule applies when "an attack is made upon the honesty, character, integrity, or like personal qualities of an identified person or group" during origination cablecasting concerning issues of public importance. A cable system must give the following to the person or group attacked within one week: notification and identification of the cablecast; a script or tape of the attack; and an offer of a reasonable opportunity to respond over the cable facilities." You will note that within this ruling it states, " Cable system". Because the cable system by a franchise agreement assigned Channel 2 to the City of Manistee the City and/or their designate (Infoprod, Inc.) becomes the controlling parties of Channel 2 and they (City of Manistee and/or Infoprod, Inc.) has the obligation to this ruling. By review of the attacks made, you will clearly see that my and Sunset Productions honesty, character, and integrity was certainly attacked. You will also note that Mr. Mark Carlson (Infoprod, Inc.) did not notify me of the attacks in the appropriate manner described above, and therefore is in violation of this FCC ruling.

I have notified the FCC of this violation, and they have instructed me to file this complaint with the local franchisee (City of Manistee / P.E.G. commission). Pending outcome of your action on this matter by the P.E.G. commission a review will be made to see if further action is warranted to be forwarded to the FCC.

I would like to re-state once again, I have no animosity and /or ill-wills against Mr. Mark Carlson and / or Infoprod, Inc. however when the operator is in violation it must be brought to your attention and dealt with according to the violations.

I feel no one has the right to use the City of Manistee , the P.E.G. commission and Channel 2 for any personal vendetta which I think the record will clearly show and indicate that these ill-filings do not come from myself or anyone associated with Sunset Productions.

Thank you very much for your time in this matter.

Sincerely,

Cliff Edward Selko

Cliff Edward Selko

BRIDGEWATER PLACE  
POST OFFICE BOX 352 • GRAND RAPIDS, MICHIGAN 49501-0352  
TELEPHONE 616/336-6000 • FAX 616/336-7000

JAMES N. DeBOER, JR.  
WILLIAM K. VAN'T HOF  
HILARY F. SNELL  
PETER ARMSTRONG  
ROBERT J. ELEVED  
KENT J. VANA  
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ROBERT C. RUTGERS, JR.  
MARC DANEMAN  
MARY ANN ROBB

Counsel  
WILLIAM J. HALLIDAY, JR.  
EUGENE ALKEMA  
TERRANCE R. BACON  
PETER VISSERMAN  
H. RAYMOND ANDREWS  
KAREN SMITH KIENBAUM  
MICHELLE ENGLER  
JAMES R. VIVENTI  
  
Of Counsel  
JOHN L. WIERENCO, JR.  
F. WILLIAM HUTCHINSON  
R. STUART HOFFIUS  
GORDON B. BOOZER  
H. EDWARD PAUL

## MEMORANDUM

TO: Michigan Communities  
FROM: John Pestle  
RE: State Legislative Threat to Franchising  
DATE: July 27, 1995

Proposed telephone legislation in Lansing is a significant threat to local franchising. This memo briefly describes the problem and what you should be doing.

**Background:** Michigan's current Telecommunications Act (so-called Public Act 179) expires at the end of this year. For this reason, House and Senate committees have been working hard on replacement legislation. Speaking generally, the replacement legislation would further deregulate telephone companies, encourage the rapid spread of new telecommunications services, and the like.

**Procedures and Timing:** In an unusual move, the Michigan House and Michigan Senate committees held joint hearings throughout the late winter and spring on various issues and policies which the new legislation will address. They have now directed their staffs to draft legislation which will be ready for introduction this fall. The intent is that once the legislation is introduced that it move quickly with minimal amendments so that it can be in place by year end (when the current act expires).

Normally when a bill is introduced there are hearings (and sufficient time) for the public to provide meaningful input, after which it is rewritten. Here, the main hearings were

deliberately held first so that based on the input received there the committees would draft a bill which would be enacted quickly, with little further change or amendment.

Local Franchising: At this point, all indications are that the new legislation will be adverse to local franchising. This is for a combination of reasons, including (1) a misunderstanding of the legitimate municipal role in franchising; (2) lack of understanding that Michigan's Constitution reserves franchising solely to municipalities, with little or no role for the state (due to problems a century ago when the state attempted to get into the franchising business); (3) heavy lobbying against local franchising by telephone-type companies; (4) a desire to encourage the quick spread of new telecommunications services so as to enhance Michigan's economic growth; and (5) lack of input from or contacts by municipalities with the key legislators involved in these matters.

Typical comments which have been heard from legislators and their staffs are to the effect that "We don't see any need for local franchising -- it just slows down the spread of new services"; "If a franchise is needed, it should be a simple one-page matter granted in a matter of days." Examples of municipalities that have granted franchises are countered by anecdotes of "x" city or "y" township being slow to grant franchises or making unreasonable demands. Testimony by two mayors that communities do not stand in the way of any significant desire from their residents for new telecommunications services fell on skeptical ears.

What Will Likely Happen: The new telephone companies that dislike local franchising have been lobbying the legislature hard against franchises for years. Their arguments against franchising sit well with the current antigovernment and antiregulatory mood in Lansing.

What is likely to happen is that the new legislation will restrict local franchising for new telephone companies. Whether the bill may attempt to eliminate franchising altogether or limit franchise provisions (e.g., prohibiting franchise fees) is unclear.

Legislation Improper/Not Needed: Attempts to restrict or eliminate local franchising are improper. The Michigan Constitution reserves franchising solely to municipalities. It does this specifically to prevent the state from getting into the franchising business due to the severe problems created by the state when it attempted to this a century ago.

Franchising is essential to preserve municipal control over streets and highways. This is essential for public safety. Franchises also ensure that all residents are served; that insurance, indemnity and other provisions protects municipalities and their residents; that there is compensation for use of public property; and provide other similar protections.

**What You Should Do:** There are several things which municipalities should do. Among them are the following:

- (1) Write or call the Michigan Municipal League or Michigan Townships Association and ask them to continue their efforts against this legislation. In particular, ask them to continue to educate state officials and be prepared for the bills when they are introduced.
- (2) If your city or township has a lobbyist in Lansing, contact him or her to see if they will be available to work on this legislation. Of major concern is the fact that the telephone companies and other business interests involved in this legislation have already tied up most of the major lobbying firms in Lansing. We can give you some suggestions if your normal lobbyist is unavailable.
- (3) Speak with your legislator about these issues. Key legislators include the following: From the Senate Technology and Energy Committee - Senators Dunaskiss, Schuette, Bouchard, Berryman, and Byrum. From the House Public Utilities Committee - Representatives Dobb, Ryan, Galloway, Middaugh, Whyman, Stallworth, DeMars, Debronski, and Olshove.
- (4) The testimony of two mayors before the legislature this spring sets forth the reasons for local franchising and why the legislature cannot and should not restrict it. If you would like a copy, call my secretary, Kathy Langeland, at (616) 336-6000 Ext. 5743.
- (5) Be prepared for a significant effort this fall once a bill has been introduced.

**Conclusion:** The purpose of this memo is to alert you to the current situation and what will likely occur this fall. If you need further information, please contact John Pestle at (616) 366-6000.